

Exhibit E

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-----x 19-MD-2903 (GWC)

In Re: Fisher-Price Rock 'n Play
Sleeper Marketing, Sales Practices,
and Products Liability Litigation

Rochester, New York
December 9, 2019
10:09 a.m.

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STATUS CONFERENCE

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE GEOFFREY W. CRAWFORD
UNITED STATES DISTRICT JUDGE

FOR PLAINTIFF: WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP
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11:24AM 1 December 2nd submission to the Court. So, hopefully that
2 suffices.

3 **THE COURT:** What does reasonably accessible sources
4 mean?

11:24AM 5 **MR. TEPPER:** Yeah, your Honor. This ties into some
6 of the matters that we spoke earlier in regards to matters 3
7 through 5.

8 And what, what we intended when we drafted this
9 agenda was we believe that we need some answers about what
11:24AM 10 the defendant's document retention policies are; what their
11 reasonably accessible records are; how far back can they
12 reasonably, without undue cost or burden, search for
13 responsive documents. And we simply have not gotten answers
14 to that.

11:25AM 15 **MS. MARSHACK:** Your Honor, this, to us, seems like
16 putting the cart before the horse. We are not in a situation
17 where there's any allegation of wrongdoing, spoliation,
18 inadequate document production. We've just begun. And, so,
19 to kind of go into a scorched earth, you know, what, what are
21 our document retention policies, where are the documents, how
22 far back do they go, that will naturally happen as we're
23 producing documents. And, you know, they end at, let's say,
24 2013 because that's all that our electronic database for when
25 our emails go out, that's as far back as it goes. I don't
see a need for this discussion now. It will -- it will

11:25AM 1 happen as it naturally happens. But to answer questions kind
2 of in the abstract before there's a problem doesn't, doesn't
3 seem to serve any purpose.

4 **THE COURT:** Well, it was probably the first
11:26AM 5 question that you had when you got the case and went to meet
6 with the IT people and kind of figure out the lay of the
7 land. That would be sort of early in your preparation. So
8 why don't you just tell them. I mean, it's whatever their
9 process is. I'm sure it's a big company. They've got 50 IT
11:26AM 10 people that think about this all the time and they have a
11 process.

12 **MS. MARSHACK:** Well, unfortunately, it isn't quite
13 that easy.

14 **THE COURT:** Right.

11:26AM 15 **MS. MARSHACK:** There -- in our discussions, there's
16 different accessibility issues for different types of
17 information and so it's a kind of a never-ending inquiry that
18 we have some answers based on what we've been looking for to
19 date. I'm not certain that we have all the answers.

11:26AM 20 **THE COURT:** So tell him what you know and what you
21 don't know and he'll be happy.

22 **MS. MARSHACK:** Okay.

23 **THE COURT:** Okay.

24 **MR. TEPPER:** Thank you, your Honor.

11:27AM 25 **THE COURT:** Yep. A timeline. How long does it